

1 CHAIRPERSON JAMES: Commissioners?

2 COMMISSIONER WILHELM: I want to make a comment that is
3 partially related to this presentation and partially goes back to
4 earlier discussions we've had about Internet gambling.

5 I was very troubled, as I'm sure every Commissioner
6 was, by Jim Dobson's recounting in the context of our Internet
7 gambling discussions the decisions of the courts that gutted the
8 work of the Pornography Commission that Jim served on, and so
9 some of you know that I asked our union's lawyers to examine the
10 question of whether or not from a legal perspective, leaving
11 aside the technological issues, the government can ban Internet
12 gambling, and I took the liberty of sending our attorneys' memo.
13 I don't know. It only went out last week, and I don't know if
14 all of the Commissioners have had a chance to read it.

15 In the course of our union work, we have to be very
16 concerned with free speech issues, both in terms of what we do
17 and in terms of what employers do, and so I believe our firm has
18 a considerable expertise in that area.

19 And those of you who have seen the memo know that it is
20 our conclusion unequivocally that while you can't ban speech, no
21 matter how disgusting as in the examples Jim was talking about
22 from the pornography field, you can ban or the government can ban
23 the actual conduct of gambling in the same way that it can ban
24 it, you know, in its live form.

25 And so we believe at least, speaking for our union,
26 that there's absolutely no free speech problem with a complete
27 ban on the conduct of Internet gambling.

28 Now, I recognize there are enforcement issues, and I
29 don't know if we can arrest the on-line companies or the servers

1 or whoever, but in terms of the issue that Jim was raising, the
2 comparison with the free speech issue that the Pornography
3 Commission recommendations ran up against, I think we can be very
4 comfortable that that is not a problem in terms of the Internet
5 issue.

6 And I only raise it here because, you know, it has been
7 suggested to us by some people in previous testimony there might
8 be a free speech problem in that regard. Commercial speech is
9 very different from the actual conduct of gambling.

10 COMMISSIONER BIBLE: And why don't we pose it to you as
11 a question at least in terms of the context that you put Internet
12 gambling in?

13 It would appear to me and I would concur with you that
14 you cannot ban probably wagering information and speech rights
15 that run to wagering information, but you certainly can regulate
16 or control or prohibit the wagering transactions themselves.

17 MR. BOOKSHESTER: I think that's correct.

18 COMMISSIONER DOBSON: Provided it's in the United
19 States obviously, right? I mean, isn't the big problem that the
20 Internet takes you into international waters and banning it and
21 controlling it and making it illegal becomes vastly more
22 difficult?

23 MR. BOOKSHESTER: The only case of which I'm aware that
24 might be of relevance to you is that there is a case pending in a
25 court in California, and I'm sorry I don't recall which one,
26 which has to do with whether a lady can avoid \$70,000 in credit
27 card debts because those credit cards debts were run up on
28 Internet gaming, and what she's arguing is that the activity is
29 illegal. So the debt can't be enforced.

1 But I agree with you, sir. I think it's difficult to
2 reach as a technologic -- as a jurisdictional matter, you have
3 trouble reaching the folks who are doing this. As a
4 technological matter, you have difficulty dealing with the
5 information coming into the country.

6 As a regulatory matter, there may be a way to regulate
7 the commercial transaction.

8 MR. SHOUP: But the problem you referred to is one that
9 is raging right now between the different standards that exist or
10 are being developed by the European Union regarding privacy on
11 the Internet. They are moving towards a much more regulatory
12 system than the one which our government has determined is
13 appropriate and effective in this area, primarily the voluntary
14 participation of companies and the media to regulate themselves.

15 COMMISSIONER DOBSON: You may have covered this when I
16 was out just now, and I apologize for that. So this may be
17 redundant, but have you addressed the issue of the failure to pay
18 off earnings on the other side of the transaction from offshore
19 operations or European operations? Do we know anything about
20 that?

21 Are there instances where the money is take in and not
22 paid out? You just mentioned not paying your credit card bills
23 because it is an illegal activity. How about the other end of
24 that line, where the providers or the gambling enterprise is not
25 honest? Is this the wrong people to answer that?

26 MR. BOOKSHESTER: We're the wrong folks. It's not our
27 area.

28 COMMISSIONER DOBSON: Okay. All right.

1 MR. BOOKSHESTER: I mean I know just anecdotally we
2 have a time share on the island of Antigua, and for \$100,000 to
3 the Antiguan government you can get licensed to run an Internet
4 gambling site, and most of them are sitting up there at the St.
5 James Club, and you know, they're operating, but you've now got
6 the totality of my wisdom on Internet.

7 (Laughter.)

8 COMMISSIONER DOBSON: Can any of my fellow
9 Commissioners answer that question? Are we aware of problems in
10 that area?

11 COMMISSIONER BIBLE: In terms of payoffs?

12 COMMISSIONER DOBSON: Yes.

13 COMMISSIONER BIBLE: Oh, yeah. There have been. There
14 have been problems with people making wagers and not getting paid
15 off through the Internet, the transaction not being completed

16 COMMISSIONER DOBSON: If that word gets around, it
17 would limit it, I would think.

18 COMMISSIONER BIBLE: Sure, sure.

19 CHAIRPERSON JAMES: Well, part of what we're struggling
20 with right now is what this Commission is going to say in its
21 final report on the issue of advertising, advertising as it
22 related to lotteries, casinos, and the parimutuels, the whole
23 gamut.

24 If you could, from your perspective, say to us what
25 your recommendations would be in 25 words or less, what would you
26 say?

27 MR. SHOUP: Well, my recommendation would be to explore
28 to the maximum extent cooperation and voluntary development of
29 advertising codes and principles in this particular area, and

1 then make certain that there is some kind of a system -- I know
2 my 25 words are up -- but there is some kind of a system put in
3 place so that you can monitor the advertising that's being done
4 and actually call to task that advertising that is obviously
5 false and deceptive advertising.

6 CHAIRPERSON JAMES: And that would be advertising
7 across the board for states, parimutuels?

8 MR. SHOUP: Well, as I said earlier, the difficulty of
9 developing a single code for lottery advertising that is being
10 conducted by 38 different government entities is probably
11 impossible.

12 CHAIRPERSON JAMES: But you don't think it would be
13 inappropriate for this Commission, as an example, to make a
14 strong recommendation to those states that run lotteries what a
15 model code would look like for their consideration?

16 MR. SHOUP: I would, I think, when it comes to the
17 state lotteries, I would use the word "principles" as opposed to
18 "codes" because codes, I think a lot of people think of them as
19 building codes or something, but I think "principles" might be a
20 more appropriate nomenclature for your recommendation.

21 COMMISSIONER BIBLE: Why don't you maybe put a little
22 bit more flesh on it? I didn't realize this is where you're
23 leading in terms of talking about some standards perhaps. I'm
24 thinking of the advertising will be conducted with a standard of
25 decency, which is very subjective; that it has integrity; that it
26 has truthfulness, but along those lines, kind of expand and
27 develop some criteria that would be more objective and less
28 subjective in terms of applicability to a lottery advertisement,
29 for instance, that a state has conducted.

1 Of course, it would have to be implemented voluntarily,
2 I would assume.

3 MR. SHOUP: Yes, sir. Well, I mentioned earlier in my
4 testimony the code that is being developed by the American Gaming
5 Association, and it is quite specific in a number of areas. It
6 includes, for example, that gaming establishments should not
7 advertise using cartoon figures, for example. It advocates that
8 there be great caution exercised in the selection of media that
9 is used for gaming advertising so that the exposure to under age
10 audiences is kept to a minimum.

11 Those are the kinds of specifics that I think can be
12 included in a voluntary code.

13 COMMISSIONER BIBLE: Because I have some experience.
14 We have a general regulation in the State of Nevada that
15 indicates that licensees will conduct their advertising practices
16 in accordance with standards of decency and decorum. Now, that
17 is highly subjective.

18 COMMISSIONER McCARTHY: Yes.

19 COMMISSIONER BIBLE: And at least during my tenure we
20 took two actions against licensees for violations of those
21 standards. In one instance, it involved the truthfulness issue,
22 and we fined the licensee, I believe, \$125,000, and it was part
23 of a multiple count disciplinary action.

24 In another instance we fined a licensee showing an
25 under age person involved in gambling also a substantial amount
26 of money.

27 CHAIRPERSON JAMES: Yeah, I had some serious concerns
28 about you remember the ad that we saw a little earlier where they
29 had the young man walking and looked at what his life could be

1 like if he won the lottery, and he looked like he was 15 years
2 old. I want to know what he was doing buying a lottery ticket in
3 the first place.

4 COMMISSIONER BIBLE: But if you're going to have and
5 develop standards and have them be applicable and enforceable,
6 you're going to have to have them be fairly objective, and it
7 sounds like that's where the AGA is leading in terms of --

8 MR. SHOUP: Yes, exactly.

9 COMMISSIONER BIBLE: I was not aware that they were
10 doing that project.

11 MR. SHOUP: Yes.

12 MR. BOOKSHESTER: And I think also obviously the
13 organization, I mean, the lottery association has to agree that
14 that's what they choose to do.

15 Hal didn't mention it, but there is a great deal of
16 experience in the advertising business with regard to the
17 children's advertising review unit and the National Advertising
18 Division of the Council of Better Business Bureaus, which is
19 strictly a voluntary operation. Perhaps if you'd like, we can
20 speak a bit more about that, but those have been in business for
21 a good, long time.

22 MR. SHOUP: Yes. As I said, it started in 1971 with a
23 general concern that the advertising in general was not being as
24 honest and truthful as it should be and must be to be effective,
25 and so the advertising industry, as I said, our association, the
26 Advertisers Association, AAF, put that system into effect with
27 the Better Business Bureau.

28 CHAIRPERSON JAMES: As you know, I'm very aware of that
29 system, but I guess my concern is that system has been in place,

1 and we're still producing at the state level some of the ads that
2 we saw this morning, and so the question becomes: how do we make
3 recommendations to those states? And I don't think I've heard
4 anyone say that we ought to come up with a forced system or codes
5 that are imposed at the federal level on states yet. Someone may
6 make that recommendation, but I haven't heard it.

7 But I do think we could have something, and I think you
8 used the word "objective," Bill, and I would say specific
9 recommendations for what it ought to look like.

10 As an example, if some state legislator who is
11 concerned about this in his or her locality wants to have some
12 ideas about what he could do, I want her to be able to pull out
13 our report, look at this, and find some concrete examples of
14 things they could do at the state level to improve the
15 advertising of lotteries or casinos or whatever.

16 And I am well aware of the systems that are currently
17 in place, but they seem to be failing us in this area.

18 MR. SHOUP: Well, I think certainly one great source of
19 information would be the AGs that you have access to and how they
20 actually implemented the laws that exist in their state regarding
21 truthful, non-deceptive advertising. They ultimately have the
22 hammer.

23 I would just suggest to you, however, that the
24 development of guidelines or principles of advertising that would
25 be specific for state lotteries might quite possibly reduce the
26 work load for Attorney Generals.

27 COMMISSIONER BIBLE: Lotteries, at least if they're
28 operated by the state, may not be subject to the jurisdiction of
29 those particular sections of the code because I can just envision

1 in my mind the code says "a person shall not," and a person by
2 definition may not be a governmental entity. I don't know. It
3 probably varies from state to state.

4 MR. SHOUP: That very well may be.

5 COMMISSIONER McCARTHY: I don't know how much
6 conversation we've had on this Commission regarding any
7 suggestions, any sort of limitations, any sort of standards for
8 advertising for private sector gambling. We may have. I don't
9 recall it. I'm not personally interested in getting into that
10 area for several public policy reasons, but I do agree with a
11 couple of members of this Commission who, in their questions and
12 comments, have implied that different levels of government have a
13 separate set of responsibilities, public responsibilities, and
14 they do not stand in the shoes of a private sector citizen,
15 whether individual or corporate.

16 And the one thing I would appreciate getting is what I
17 think Mr. Bookshester said earlier he might be able to obtain,
18 which is any case law that exists that separately defines the
19 responsibilities of states in their advertising practices because
20 they are in a different status than private sector citizens. If
21 there's anything you can give us on that --

22 MR. BOOKSHESTER: We will certainly do our best to do
23 that.

24 COMMISSIONER McCARTHY: -- that would be helpful.

25 Thank you.

26 CHAIRPERSON JAMES: I want to thank you gentlemen for
27 your participation with us today and also for the information
28 that you will continue to forward to us. It's a difficult area

1 that we're struggling with, and we appreciate your expertise in
2 that area and your guidance.

3 Thank you very much.

4 MR. SHOUP: Thank you very much.

5 CHAIRPERSON JAMES: With that, I want to make sure that
6 the Commissioners have had every opportunity to talk about this
7 particular issue, give any guidance to the writing staff in terms
8 of suggestions.

9 Any additional information that you need before you
10 want to deliberate on this that we can direct them to get on your
11 behalf?

12 COMMISSIONER BIBLE: Now, are we going to have a
13 separate section or chapter that deals with advertising
14 practices?

15 CHAIRPERSON JAMES: I'm sorry?

16 COMMISSIONER BIBLE: Is there a separate chapter that
17 deals with advertising practices?

18 CHAIRPERSON JAMES: Yes.

19 MR. SHOSKY: Advertising and marketing is what it's
20 called.

21 COMMISSIONER BIBLE: Because it would appear to me that
22 it should be handled really as a subset of the lottery because
23 that's the only applicability, and advertising generally -- at
24 least I would agree with Commissioner McCarthy -- I don't believe
25 -- at least it's not an issue I want to become involved in in
26 terms of general advertising practices for commercial gaming or
27 any other enterprises.

28 CHAIRPERSON JAMES: I'm having a real hard time hearing
29 down here, Bill. I'm sorry.

1 COMMISSIONER BIBLE: Okay. What I suggested was that
2 we handle the advertising issue really as a subset of the lottery
3 chapter because I think that --

4 PARTICIPANT: Or any government.

5 COMMISSIONER BIBLE: Or any local government. It may
6 be appropriate under tribal if you treat them the same manner as
7 a state government in terms of --

8 CHAIRPERSON JAMES: Any dissenting view on that?

9 COMMISSIONER BIBLE: Because I at least don't want to
10 take a look at or am not particularly interested in looking at
11 commercial gambling advertising. That issue is going to be
12 litigated, and I believe it's going to be resolved, and I concur
13 with these gentlemen, resolved in favor of the free speech rights
14 of the legal enterprise.

15 COMMISSIONER WILHELM: In principle, I agree with Leo
16 and Bill. I'm just wondering whether it's of any utility -- and
17 this is a query. I don't have a position -- whether it's of any
18 utility to either take note of or opine about in the report the
19 concept of voluntary codes and best practices.

20 Forgive me if I have been given the AGA material that
21 was referenced to and don't remember it, but if I was given it, I
22 didn't read it, and I apologize for that in advance, but I don't
23 know if that kind of voluntary code, best practices kind of
24 approach is of any relevance.

25 I think clearly in the subject of problem gambling
26 that, among other things, we will be interested in what it is
27 that the industries may or may not be doing with respect to codes
28 and best practices, and I don't have a position, but I just raise

1 the question whether with respect to clearly protected free
2 speech the report should have any interest in that sort of thing.

3 COMMISSIONER DOBSON: I think we're dealing with two
4 different things, particularly, Kay, in regard to what you said
5 earlier and Bill's comment and now yours, John.

6 First of all, there's the issue of legalities and what
7 we can recommend in terms of changes in the law. Obviously
8 that's not my greatest interest there.

9 There's another responsibility here in critiquing what
10 is occurring, which is separate from saying that there ought to
11 be federal legislation or there ought to be laws that would
12 perhaps be found unconstitutional.

13 Do you understand what I mean, John?

14 COMMISSIONER WILHELM: Yeah.

15 COMMISSIONER DOBSON: That there's a place for saying
16 this should not occur with reference to advertising without
17 necessarily saying we have violated some kind of constitutional
18 right of casinos or others to advertise.

19 I hope we're not limiting ourselves and our
20 recommendations only to that which deals with the law.

21 CHAIRPERSON JAMES: Comments?

22 COMMISSIONER MOORE: Yeah, I agree. I mean you can
23 recommend anything, and I think as I said a while ago, I think
24 it's this Commission's duty if we as a Commission see that we
25 should make statements, if you want to put in quotations, what
26 maybe is right and what's wrong. I mean we're not particularly
27 judging anyone, but I think it would be nice if someone would say
28 something good sometimes.

1 CHAIRPERSON JAMES: Leo, Bill, how strongly do you feel
2 about that?

3 COMMISSIONER BIBLE: Well, I feel reasonably strongly
4 at least our applicability should be narrowly focused on the
5 lottery issue or maybe tribal gaming because they're governmental
6 type operations and they may not be subject to some of the other
7 constraints that other advertising entities are.

8 The other issues I believe are free speech issues, and
9 I think the casinos as legal entities have the same right to
10 advertise as Jim Dobson does to put out his newsletter.

11 COMMISSIONER MCCARTHY: I would endorse what Bill just
12 said, and I would add that I think we could embody the sense of
13 what Jim Dobson just proposed by our statement of what government
14 units or what their special responsibility is to the people that
15 they're supposed to represent, and that is apart from the private
16 sector.

17 We could really do both. We could make a statement of
18 what is appropriate. Whether we phrase it as right and wrong, I
19 think we ought to put this in a way that maybe doesn't sound like
20 a preachment or a lecture, but rather a very straightforward kind
21 of statement making it clear, you know, what American standards
22 should be for government units. I think that would be
23 appropriate.

24 And I also think maybe to suggest what a model code is
25 for standards for government run lotteries should be and for
26 possibly even some kind of mechanism for what happens if that's
27 violated.

28 CHAIRPERSON JAMES: Right.

1 COMMISSIONER MCCARTHY: I would even go so far as to
2 want to look at the right of a citizen of a governmental
3 jurisdiction to be able to sue their own government if he or she
4 thought there was a violation of clearly drafted standards of
5 what advertising should be for a government run gambling
6 operation.

7 COMMISSIONER WILHELM: Gee, and here I thought we had
8 the ballot box.

9 (Laughter.)

10 COMMISSIONER WILHELM: I think the suggestion Leo and
11 Bill are making with respect to what the report might say about
12 government run lotteries is quite pertinent. I said to
13 Commissioner Loescher before after his comments a little while
14 ago about state run lotteries that it seemed to me conceptually
15 at least, that if the Commission or in his case Commissioner
16 Loescher was going to make a recommendation about one form of
17 government run gambling, that theoretically at least I would
18 think the same kinds of recommendations would be appropriate with
19 respect to other forms of government run gambling, namely tribal
20 gambling.

21 And I asked him to think about that, but leaving aside
22 that question, I for one would be quite interest in anything that
23 Mr. Shoup or Dr. Cook and his colleagues might have to suggest by
24 way of what a model code for government run lotteries might look
25 like.

26 CHAIRPERSON JAMES: I would remind the Commissioners
27 that in our enabling legislation it did request that we look at
28 the role of advertising in promoting gambling, and having said
29 that, I am very sensitive to making pronouncements in the area of

1 commercial gambling and recognizing the commercial entities and
2 their right to advertise.

3 I am actually looking forward to what the AGA has to
4 say in that area and think it could be very instructive. I don't
5 think that it's inappropriate for this Commission to comment on
6 advertising by other than non-government entities. It may be a
7 tricky area. It may be there are the questions of, you know,
8 what's legal and illegal. There may be questions of free speech
9 rights and all of that, but still I believe that we're well
10 within our purview if we want to comment on advertising in
11 general and how it either affects the public good or does not.

12 And I think Commissioners will have an ample
13 opportunity as we go through the review process if we don't stay
14 within that purview to point that out and edit it out of the
15 process. I'm not prepared at this point to recommend giving up
16 the chapter on advertising and only comment on state lotteries.

17 COMMISSIONER McCARTHY: Governmental lotteries.

18 CHAIRPERSON JAMES: I'm sorry?

19 COMMISSIONER McCARTHY: Governmental lotteries.

20 CHAIRPERSON JAMES: Governmental. You're absolutely
21 right, Leo. Yes, governmental lotteries.

22 COMMISSIONER WILHELM: May I ask what the availability
23 of the AGA's work in this area is or will be?

24 MR. FAHRENKOPF: Our board of directors has already
25 adopted -- I mentioned this when I testified down in Virginia
26 Beach. I don't think we presented it to you, but we'll certainly
27 get it to you, and we're now working on the implementation, as
28 Mr. Shoup said, of getting an independent body who can make the
29 judgments as to whether or not one of our countries has violated,

1 because we don't want to be judging it ourselves. We have to
2 have an outside, independent organization, and we're in the
3 implementation stage right now on this one.

4 COMMISSIONER WILHELM: Thank you.

5 Do we know or can staff determine, Madame Chair,
6 whether any other industry, gambling industry groups are pursuing
7 anything comparable to that?

8 CHAIRPERSON JAMES: Have you run across that in any of
9 your --

10 MR. SHOSKY: Would that be comparable to model
11 guidelines?

12 COMMISSIONER WILHELM: Yeah, it's specifically now on
13 the subject we're on, advertising. Whether, for example, the
14 horse people or the dog people or the card club people or anybody
15 else is pursuing things of that kind.

16 CHAIRPERSON JAMES: Can I ask you when you comment to
17 speak into the microphone because we're having a difficult time
18 capturing it for the record?

19 COMMISSIONER WILHELM: Thank you. You'll need a
20 microphone.

21 MR. SHOSKY: Madame Chair, at the moment, no, but
22 fortunately one of the great things about the Supreme Court case
23 coming up and the friends of the Court's briefs that are being
24 filed is that a wealth of information is showing up on this issue
25 right now as the previous witnesses testified. The briefs are
26 being submitted for this case, and the case will have its oral
27 argument before the Court at the end of next month.

28 Interestingly, the decision is projected to be
29 announced in June, mid to late June. That's an interesting time

1 line for us, but from a research standpoint, this is great. It
2 couldn't happen at a better time for us, and what we need to do
3 is to continue to get all of this material as it's being made
4 available to the Court.

5 CHAIRPERSON JAMES: If you have something, please,
6 you're going to have to come forward because we won't be able to
7 hear.

8 If you would identify yourself.

9 MR. ANDERSON: Yes. George Anderson, President of
10 North American Association of State and Provincial Lotteries.

11 Certainly the lottery industry has advertising
12 standards and best practices. In fact, the majority of the
13 lotteries do.

14 We are, in addition, have been for a month or two now
15 working on a very comprehensive set of practices and guidelines.
16 They have not yet been adopted. The vote and the discussion and
17 debate does continue.

18 The most interesting point was when dealing with 38
19 states and sovereign governments, it is a committee designed to
20 make a greyhound that comes out with a camel sometimes, but they
21 are very fundamental standards, working already in conjunction
22 with the Four As.

23 CHAIRPERSON JAMES: When will they be available for us
24 to take a look at?

25 MR. ANDERSON: I hope in the near future.

26 CHAIRPERSON JAMES: How near?

27 COMMISSIONER BIBLE: June 21st.

28 (Laughter.)

29 MR. ANDERSON: They will certainly be before that.

1 I would also be remiss if I wasted the opportunity --

2 CHAIRPERSON JAMES: I'm sorry. I didn't hear the
3 answer to that. How near?

4 MR. ANDERSON: I think it will be certainly before
5 June, hopefully in the next few weeks.

6 I would be remiss if I didn't point out, as well that
7 we have some serious concerns with Dr. Cook's mathematics. We
8 will look at it. We just got it today. I think there are some
9 fundamental errors in marketing and also some judgment that are
10 applied to it, much of which are in contradiction to the NORC
11 study and to other information that we have provided to you.

12 But on the subject of advertising standards, also
13 please don't forget that we are subject to state consumer
14 protection laws, and so on, and that we are subject to
15 extraordinary review at the state level. We certainly support it
16 as an industry, individual examples perhaps notwithstanding that
17 may have been selected out.

18 One of the primary ones, which is to look at television
19 only in a marketing campaign and not to look at the other media
20 that are used from brochures which have all the odds in them to
21 stickers on compulsive gambling, to public service announcements,
22 none of which were presented, does not present the complete
23 picture that I think you should expect.

24 COMMISSIONER BIBLE: In terms of the review procedures,
25 why don't you describe some of those? Because I think that would
26 be helpful.

27 MR. ANDERSON: Most lotteries, almost all lotteries do
28 have boards, do have very stringent legislative oversight.

1 COMMISSIONER BIBLE: And have boards. Can you give us
2 some general ideas as to the composition?

3 MR. ANDERSON: Generally appointed by governors,
4 sometimes in association with leadership of either of the two
5 houses, for a term rotating generally; commissions for or boards
6 for the few public corporations, such as Georgia, Kentucky,
7 Louisiana, are also appointed governmentally, but they do
8 function outside the norms of state government, mainly with
9 procurement and retirement programs, and so on.

10 Public attention and public meetings are the normal.
11 Legislative oversight is without end. You have to keep in mind
12 that legislators, typically about half of them are not in favor
13 of gambling, but that all of them are professionally critical of
14 all aspects of government. That is their job. I think that's --
15 I know that's been the case for my 20 years in the business.

16 The media certainly pays excruciatingly close
17 attention. It is a very highly regulated area of government. It
18 is an anomaly within state government to have government be
19 involved, lotteries be involved as an entrepreneur, and yet that
20 is our charter. That is the way that we've been instructed to
21 operate, and I think we do so well.

22 In characterizing, you know, some of the who plays and
23 so on and extrapolating it out to compulsive gambling, for
24 example, as was done, is inappropriate. There is no nexus
25 between those factors other than speculation.

26 In fact, it goes in conflict with some of the NORC
27 reports.

1 But the overall supervision, if you will, is boards.
2 It is legislative committees. It is legislators. We are the
3 creation and survive at the pleasure of those people.

4 The ballot box does play a part. Governors change.
5 Governors play a part. All of that has been submitted and, I
6 think, deserves equal consideration.

7 COMMISSIONER MCCARTHY: A question of Mr. Anderson,
8 please.

9 Mr. Anderson, I'm quite sure in my own mind there are
10 serious distinctions among the states as to how they handle their
11 lotteries and so on. So that's why my earlier comment to Dr.
12 Cook about even on advertising. I'm sure we'll find in many
13 states the advertising is inoffensive, just as we'll find in some
14 of the states that it's really questionable.

15 I would appreciate it if you could provide the
16 Commission with whatever information your trade association has
17 accumulated as to which private companies participate in the
18 operations of each of the 37 state lotteries and what they are
19 paid for their services on an annual basis.

20 Thank you very much.

21 MR. ANDERSON: That is published, and we will certainly
22 be pleased to do it.

23 By the way, there are extensive background checks that
24 are done on corporate officers, shareholders and general
25 practices. I won't say that they rise to the severe and good
26 levels of the Nevada Gaming Commission, but we also use Nevada
27 Gaming Commission as background. Many of them perform in both
28 arenas. The world has switched to that level.

1 The industry has been refined greatly over the years,
2 by the way. Some of the references in Drs. Clotfelter and Cook's
3 book from the 1980s are no longer practices among state
4 government and have not been for many, many years.

5 Some of the egregious examples, although severely
6 misquoted about that mythological billboard in Illinois that
7 never said, "This is your ticket out of here," for example,
8 continue on and to serve as a reminder at least of the nature of
9 advertising that we should do.

10 I am very proud of the industry. I think that the
11 advertising, with some exceptions, the one in Connecticut which
12 was pulled by the Governor. There's another one in Arizona, but
13 among the thousands of ads that are done in all the various
14 media, I think they will stand up easily to scrutiny.

15 CHAIRPERSON JAMES: Any further comments, questions?

16 COMMISSIONER McCARTHY: I guess the only other thing,
17 Madame Chair, is you heard the discussion here on particular
18 governmental responsibilities because of who they are as distinct
19 from private sector individual or corporate citizens who want to
20 advertise gambling programs' availability.

21 If you have a list of codes that have been adopted by
22 states in the form of state statutes and regulations that have
23 been promulgated by the appropriate rulemaking agency, I guess,
24 which would normally be the state lottery regulatory commission
25 which exists in most states, if you could also provide us with
26 that, we would appreciate it very much.

27 And if you could cite how many times in any of the 37
28 states there have been alleged violations of the codes that guide

1 advertising practices in the several states and what the final
2 result was of any hearings or anything that took place.

3 Thank you very much.

4 MR. ANDERSON: Thank you.

5 I might also add one point that came up earlier. The
6 question has not previously been asked of the lottery industry,
7 and that is on funding of compulsive gambling issues. One must
8 keep in mind that lotteries as an industry or as an element of
9 state government do not make appropriations. Some lotteries like
10 Minnesota do contribute, however, their operating budget to the
11 tune of maybe \$100,000. However, all compulsive gambling money
12 for programs in Minnesota comes out of lottery money. It is
13 merely mandated and appropriated by government.

14 A study is currently being done in association with
15 NASPL (phonetic) and the National Council on Compulsive Gambling
16 to attempt to get our arms around how much money is actually
17 floating in the state market. It is states that fund these
18 programs. The AGA has now stepped forward with some very fine
19 contributions and dedication to specific research.

20 I will tell you that while that report is still
21 pending, it is in excess of \$20 million that's going on now, and
22 it is growing at every turn. Those funds are sometimes lost at
23 the county level in terms of what program is which, whether it's
24 for human services, for depression or compulsive gambling. It's
25 not earmarked at that level, but we know that at Minnesota 2.4
26 million this past year, probably 1.8 next year, and growing.

27 We also are very actively involved in funding research
28 projects, supporting university research, in particular. Those
29 monies are also hard to ascertain. I know the University of

1 Minnesota just put \$350,000 toward a clinic for alcoholism and
2 compulsive gambling in for studies for medication, for example.

3 We will get that information to the Commission, but you
4 should know that that is the primary source of compulsive
5 gambling money.

6 COMMISSIONER McCARTHY: So you're itemizing all of
7 those appropriations and expenditures that go directly to the
8 issues of treatment.

9 MR. ANDERSON: Yes, we are attempting to itemize it.
10 "All" is a word that I will never --

11 COMMISSIONER McCARTHY: That's fine. The Commission
12 knows that the National Council on Problem Gambling is gathering
13 that information and needs it for its final report.

14 One final question. Could you also tell us how much
15 money any of the 37 states that operate lotteries -- how much
16 money they have invested in research on problem and pathological
17 gamblers?

18 MR. ANDERSON: Again, that would be at the state level
19 generally.

20 COMMISSIONER McCARTHY: And what we're really
21 interested in is the five percent that buy 51 percent; what I'm
22 interested in is the five percent that buy 51 percent of the
23 value of the tickets.

24 MR. ANDERSON: Of course, I disagree very much with
25 that conclusion, with 51.

26 COMMISSIONER McCARTHY: With the number? What is the
27 correct number in your view, Mr. Anderson?

28 MR. ANDERSON: I do not know. I can only tell you that
29 that number as drawn out of the Cook report today, I believe,

1 flies in the face of the NORC report and all the studies that
2 I've ever seen, and --

3 COMMISSIONER McCARTHY: Well, leaving aside the NORC
4 report, which we have in our possession, why don't you tell us
5 what research the states have done so that we know what is your
6 percentage of people who buy half, 60 percent, you know, whatever
7 cutoff point you want to say.

8 MR. ANDERSON: I have studies from Minnesota that we
9 have done for about five years in conjunction with the local
10 university. I know that I believe it's 43 percent of all of our
11 sales come from households over 50,000 in income, and --

12 COMMISSIONER McCARTHY: That's not my question. My
13 question is what Dr. Cook told us. What is the number of ticket
14 purchasers that buy the bulk of the tickets, not what their
15 income levels are. We have information on that. So my question
16 is not to establish that you're pumping your tickets out to poor
17 people.

18 My question, interested in trying to establish
19 prevalence figures, is aimed at is it five percent, eight
20 percent, 15 percent, whatever it is, as it seems to be in most
21 business sectors, that buy the bulk of your product.

22 Now, if you have any specific research on that, we'd
23 appreciate receiving it later.

24 MR. ANDERSON: There are a few studies, and I will get
25 them to you.

26 CHAIRPERSON JAMES: Thank you very much. We appreciate
27 your being here and making yourself available here today to add
28 to our thoughts and our deliberations.

29 Thank you, John.